UTAH FIRST
CREDIT UNION

MAY 28'14 AM11:21 BOARD

May 27, 2014

Mr. Gerard Poliquin
Secretary to the NCUA Board
1775 Duke Street
Alexandria, VA 22314

RE: Comment Letter Regarding Proposed Risk Based Capital Rule

Dear NCUA Board:

On behalf of Utah First Federal Credit Union, I would like to offer the following comment letter regarding the recent NCUA proposed Risk Based Capital rule. While Utah First recognizes the need for a well balanced and credit union specific set of capital standards as an alternative to the current standard regardless of credit unions' individual risk profiles, we have serious concerns about the proposed Risk Based Capital rule that we feel must be addressed or the result could be a less workable capital standard putting the credit union charter at a competitive disadvantage. We would like to respectfully address the following concerns and offer possible improvements to the regulation in theses specific areas:

The current net worth standard established by Congress in 1998 that specifies 7% net worth as the standard to be well capitalized of all credit unions regardless of their individual risk profiles is a one-size-fits-all approach. The new proposed Risk Based Capital rule is an attempt to improve this dynamic; however, in our view, it falls short of that goal and becomes little more than an inflexible one-size-fits-all supplement based on individual asset categories.

The new proposed rule is focused on concentration and interest rate risk as a reaction to the most recent economic crisis. However, the proposed rule fails to appropriately address credit risk, both positive and negative. Liquidity and performance of assets are not effectively incorporated.

An example of inflexibility within asset categories can be seen because performing consumer loans with collateral should have a lower risk weight than unsecured consumer loans. Loans originated directly should have a lower risk weight than indirect loans. Neither of these differing risk factors has been incorporated into the formula.

Also, risk weighting for mortgage loans and member business loans are based entirely on concentration risk. We suggest there should be mitigating factors that allow the weighting to be reduced for considerations such as loan-to-value, credit scores and most importantly, performance. For instance, the risk weight could be reduced by 50 bps in each applicable concentration category exceeding 100% if a credit union's charge off rate is below 1% over a five-year average for that category.

At Utah First, we have spent more than two decades building a model of expertise in business services and have become a leader in our marketplace. The quality and strength of our commercial loan portfolio consistently performs better than our consumer loan portfolio and those of our peers. Under the proposed rule, if Utah First makes a new MBL with excellent collateral, low LTV and strong credit, the risk weighting would be the same as a delinquent unsecured indirect loan. Once again, the proposed rule falls back into the one-size-fits-all approach. The proposed rule does not give any consideration for expertise and quality of the portfolio, suggesting all MBLs are created equal and all mortgage loans are created equal - which we know not to be the case. Proven risk management performance is not taken into consideration at all. Complexity alone does not increase risk yet appropriate expertise does allow risk to be managed and mitigated.

The risk weighting for CUSO investments appears to be arbitrary and will have a negative effect on collaborative efforts. The measurement on current value penalizes growth. We suggest the weighting on CUSO investments be 100% rather than 250% and NCUA manage any concerns using its current exam and supervisory authority.

The provision in the proposed rule giving examiner discretion to increase the required RBC ratio is a major flaw creating a subjective target that can change without the option of appeal. The potential for arbitrary and capricious actions in the most vital of credit union areas of performance – capital and net worth – is too much available in an unbridled grant of an individual examiner to suspend an objective regulatory capital requirement and replace it with his/her own subjective version. There are already inconsistencies in exams based on the skillset and ability of examiners. It is assumed these same inconsistencies would also be reflected in discretionary capital requirements. It is imperative for a credit union to absolutely know what their regulatory capital expectations are and to be able to manage to a specific number.

There is also confusion in the proposed rule regarding what capital standard is primary. If a credit union is well capitalized under PCA but not RBC, what actions take place? We would suggest that in this scenario, the required action would consist of a RBC restoration plan with three years to improve the ratio above the regulatory threshold.

Credit unions by our nature, and by both statutory and regulatory limits to our investment and lending authorities, carry less risk on our balance sheets than our competitors. This is reflective in the actual losses to the respective insurance funds in a comparison between FDIC and NCUSIF from 2007 through 2013. Our research shows FDIC's loss per $1,000 was $2.30 compared to NCUSIF loss per $1,000 of $0.26. Banks' loss rates with RBC requirements are 8.8x more than credit unions with a simple leverage ratio for capital adequacy. The proposed rule requires credit unions to have a substantially higher capital requirement than banks - even though the loss experience is significantly lower.

Therefore, it is suggested the RBC requirement should be 9%, rather than 10.5%, providing a very sufficient 200 bps cushion above the already high 7% net worth ratio. Credit unions will still, even at a 9% risk-based capital threshold to be considered well capitalized, have higher capital requirements and fewer capital building options than any sector of the financial services industry world wide.

It is also suggested that if both the statutory net worth ratio under PCA is above 7% and the regulatory RBC ratio under this proposed rule is above 10.5% (or more appropriately 9%), the well-capitalized credit union that exceeds both high standards should receive blanket waiver authority on fixed assets, personal guarantee requirements on business lending and extended 18-month examination cycles.

Finally, regarding the effective date, credit unions create strategic plans that span many years of engagement. It is difficult to replace a strategy effectively and create appropriate changes to a balance sheet within a short 18-month period as stated in the proposed rule for an effective date. It is suggested that credit unions be given a minimum of 36 months to prepare for this dramatic change in the credit union capital structure after the rule becomes final.

We appreciate the opportunity to provide comments on this proposed rule that will have dramatic impact on credit unions and our members for years to come.

Best regards,

UTAH FIRST FEDERAL CREDIT UNION

Darin B. Moody
President and Chief Executive Officer